

ENVIRONMENTAL PROTECTION  
AGENCY-REGION VII  
REGIONAL HEARING CLERK

## BEFORE THE ADMINISTRATOR

Docket No. CWA-07-2002-0092

## CONSENT AGREEMENT AND FINAL ORDER

This proceeding for the assessment of a civil penalty was initiated on or about March 11, 2002, pursuant to Section 311(b)(6) of the Federal Water Pollution Control Act, commonly referred to as the Clean Water Act (hereinafter CWA), 33 U.S.C. § 1321(b)(6), as amended by the Oil Pollution Act of 1990, when the United States Environmental Protection Agency, Region VII (hereinafter Complainant or EPA) issued to Aztec Oil Co. (hereinafter Respondent) a Complaint and Notice of Opportunity for Hearing.

The Complaint charged Respondent with violations of CWA Section 311(b)(6), 33 U.S.C. § 1321, and the regulations promulgated pursuant to Section 311(b)(3) and (j) of the CWA and codified at 40 C.F.R. Part 110 and 112. The Complaint proposed a civil penalty of Six Thousand Two Hundred and Fifty Dollars (\$6,250) for these violations.

Complainant and Respondent entered into negotiations in an attempt to settle the allegations contained in the Complaint; this Consent Agreement and Final Order are the result of such negotiations.

### CONSENT AGREEMENT

1. Respondent admits the jurisdictional allegations of the Complaint, and neither admits nor denies the factual allegations of the Complaint.
2. Respondent waives its right to a judicial or administrative hearing on any issue of fact or law set forth in the Complaint.
3. Respondent and Complainant agree to conciliate this matter without the necessity of a formal hearing, and to bear their respective costs and attorneys' fees.
4. Respondent certifies by the signing of this Consent Agreement and Final Order that to the best of Respondent's knowledge, Respondent is presently in compliance with all requirements of Section 311 of the CWA, 33 U.S.C. § 1321, and all regulations promulgated thereunder.
5. Nothing contained in the Final Order shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state and local environmental statutes and regulations and applicable permits.
6. The settlement pursuant to this Consent Agreement shall only resolve Respondent's liability for Federal civil penalties for the violations and facts alleged in the Complaint.
7. Respondent consents to the issuance of the Final Order hereinafter recited and consents to the payment of a mitigated civil penalty as set forth below.
8. The undersigned representative of Respondent certifies he or she is fully authorized to enter the terms and conditions of this Consent Agreement and Final Order and to execute and legally bind Respondent to it.

**FINAL ORDER**

Pursuant to the provisions of Section 311 of the Federal Water Pollution Control Act, commonly referred to as the Clean Water Act (CWA), 33 U.S.C. § 1321, as amended by the Oil Pollution Act of 1990, and based upon the information set forth in the Consent Agreement, IT IS HEREBY ORDERED THAT:

1. Respondent shall pay a mitigated civil penalty of Five Thousand Three Hundred Twelve Dollars and Fifty Cents (\$5,312.50) within thirty (30) days of the entry of this Final Order. Payment shall be by cashier's or certified check referencing the docket number CWA-07-2002-0092, and made payable to the "Oil Spill Liability Trust Fund" and remitted to:

U.S. Coast Guard  
Civil Penalties  
P.O. Box 100160  
Atlanta, GA 30384

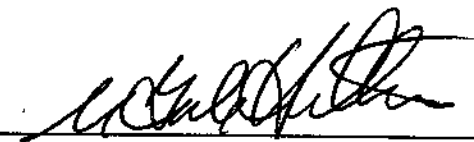
2. Respondent shall send a copy of the check to:

Kristina Kemp  
Office of Regional Counsel  
EPA, Region VII  
901 North Fifth Street  
Kansas City, Kansas 66101.


3. Respondent's failure to pay any portion of the civil penalty assessed herein in accordance with the provisions of this Order shall result in commencement of a civil action in Federal District Court to recover the total penalty proposed in the Complaint, together with interest thereon at the applicable statutory rate.

4. Respondent and Complainant shall bear their own costs and attorneys' fees incurred as a result of this matter.

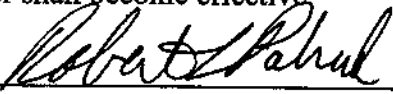
COMPLAINANT:  
UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY

By   
U. Gale Hutton  
Director  
Water, Wetlands, and Pesticides Branch  
Date April 2, 2002.

RESPONDENT:  
Aztec Oil Co.

Signature   
Printed Matthew J. Cross  
Title Secretary - Treasurer  
Date 4/19/02

IT IS SO ORDERED. This Final Order shall become effective  
immediately.

  
Robert L. Patrick  
Regional Judicial Officer  
Region VII

Date May 2, 2002

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CWA-07-2002-0092

No backup mid

IN THE MATTER OF The Buckeye Corporation d/b/a Aztec Oil Co., Respondent  
Docket No. CWA-07-2002-0092

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:


Copy hand delivered to  
Attorney for Complainant:

Kristina Kemp  
Assistant Regional Counsel  
Region VII  
United States Environmental Protection Agency  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Charles Cross  
605 S. Main Street  
El Dorado, Kansas 67042

Dated: 5/3/02

  
Kathy Robinson  
Regional Hearing Clerk